

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GINA CHAMPION-CAIN et al.,
Plaintiff,
v.
BRIAN MACDONALD et al.,
Defendant.

Case No.: 14-cv-2540-GPC-BLM

**ORDER ADOPTING REPORT AND
RECOMMENDATION IN ITS
ENTIRETY**

[ECF No. 67]

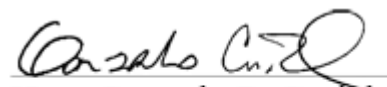
On September 22, 2015, Defendants Luvsurf, Inc. and Brian MacDonald (collectively “Defendants”) filed an ex parte motion to amend the case management order and for leave to amend the counterclaim to substitute ROES. (ECF No. 67.) On September 25, 2015, Plaintiffs opposed Defendants’ motion. (Opp’n, ECF No. 68.) On October 6, 2015, United States Magistrate Judge Barbara Lynn Major denied Defendants’ motion to amend the case management order and issued a Report and Recommendation (“Report”) recommending that this Court deny Defendants’ motion for leave to amend the counterclaim. (Report, ECF No. 69.) Judge Major ordered any objections to be filed no later than October 13, 2015, and any replies filed no later than October 20, 2015. (*Id.* at 9.) To date, no objections have been filed and neither party has sought an extension to do so.

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1 The Court reviews *de novo* those portions of the Report to which objections are
 2 made. 28 U.S.C. § 636(b)(1). The Court may “accept, reject, or modify, in whole or in
 3 part, the findings or recommendations made by the magistrate judge.” *Id.* However, “[t]he
 4 statute makes it clear that the district court judge must review the magistrate judge’s
 5 findings and recommendations *de novo if objection is made*, but not otherwise.” *United*
 6 *States v. Reyna-Tapia*, 328 F.3d 114, 1121 (9th Cir. 2003) (en banc) (emphasis in original);
 7 *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (concluding
 8 that where no objections were filed the district court had no obligation to review the
 9 magistrate judge’s report.”). “Neither the Constitution not the statute requires a district
 10 judge to review, *de novo*, findings and recommendations that the parties themselves accept
 11 as correct.” *Id.* “When no objections are filed, the *de novo* review is waived.” *Marshall*
 12 *v. Astrue*, No. 08-cv-1735, 2010 WL 841252, at *1 (S.D. Cal. Mar. 10, 2010) (Lorenz, J.)
 13 (adopting report in its entirety without review because neither party filed objections to the
 14 report despite the opportunity to do so).

15 In the instant case, the deadline for filing objections was October 13, 2015. To date,
 16 no objections have been filed and neither party has sought additional time. Consequently,
 17 the Court may adopt the Report on that basis alone. *See Rayna-Tapia*, 328 F.3d at 1121.
 18 The Court nonetheless conducted a *de novo* review of Defendants’ motion to amend the
 19 counterclaim (ECF No. 67), Plaintiffs’ opposition (ECF No. 68), and the Report (ECF No.
 20 69). The Court finds that Defendants have failed to show good cause for untimely seeking
 21 to amend the counterclaim to substitute ROES and allowing Defendants to do so would be
 22 prejudicial to Plaintiffs. Accordingly, the Court hereby approves and **ADOPTS** the Report
 23 in its entirety (ECF No. 69) and **DENIES** Defendants motion for leave to amend the
 24 counterclaim. **IT IS SO ORDERED.**

25 Dated: October 15, 2015

26 
 27 Hon. Gonzalo P. Curiel
 28 United States District Judge